

# Contemporary Issues on Matrimonial Property

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Edited by:  
Zuhairah Ariff Abd Ghadas  
Norliah Ibrahim

IIUM PRESS  
INTERNATIONAL ISLAMIC UNIVERSITY MALAYSIA



# **CONTEMPORARY ISSUES ON MATRIMONIAL PROPERTY**

*Edited by:*

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**IIUM Press**

Published by:

**IUM Press**  
International Islamic University Malaysia

First Edition 2011  
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Perpustakaan Negara Malaysia

Cataloguing-in-Publication Data

Contemporary Issues on Matrimonial Property: Zuhairah Ariff Abd Ghadas & Norliah Ibrahim

ISBN: 978-967-418-225-0

Member of Majlis Penerbitan Ilmiah Malaysian – MAPIM  
(Malaysian Scholarly Publishing Council)

Printed by

**IUM PRINTING SDN. BHD.**  
No. 1, Jalan Industri Batu Caves 1/3  
Taman Perindustrian Batu Caves  
Batu Caves Centre Point  
68100 Batu Caves  
Selangor Darul Ehsan

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## **CHAPTER 8**

# **MEDIATION IN MATRIMONIAL PROPERTY DISPUTE: THE PRACTICE IN MALAYSIA**

*Nora Abdul Hak*

### **8.0 INTRODUCTION**

In the system of justice, techniques for settling family disputes are either negotiation or litigation. It is however, seen to have minimized the importance of negotiation and exaggerated the importance of litigation. It is commented that lawyers have not fully explored other alternatives to litigation such as, mediation, arbitration, and med-arb. Many jurisdictions around the world have introduced ADR processes in their legal systems. In Malaysia, for example, Practice Direction No. 5 of 2010 has been introduced as an effort to encourage mediation in the Civil Court among lawyers and judges. The use of the litigation process to resolve family conflicts has been much criticized. Where human relationship are strained, the adversarial approach may actually exacerbate rather than reduce conflict. Thus, mediation, as one of the important mechanisms of alternative dispute resolution, has great potential to resolve family disputes, one of which is matrimonial property dispute. There may be disagreements between the parties over division of property during or after divorce. This type of dispute may be settled